

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:15CV223

Tony L. Muckle,

Plaintiff,

vs.

Summit Hospitality Group, Ltd.,

Defendant.

ORDER

This matter is before the Court upon Defendant's Motion to Dismiss for Fraud on the Court, filed November 29, 2016, and Motion for Summary Judgment, filed November 30. These motions can only be described as shockingly untimely. Discovery has long been closed and Plaintiff does not even have sufficient time to respond under the rules prior to the scheduled commencement of trial. Furthermore, with regard to the Motion to Dismiss, any factual discrepancies raised by the motion can be more appropriately explored during cross-examination. As for the Motion for Summary Judgment, the Court refers Defendant's counsel to Rule 50 of the Federal Rules of Civil Procedure. Trial will begin Wednesday, December 7, with jury selection at 10 a.m.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss and Motion for Summary Judgment are hereby DENIED.

Signed: December 2, 2016



Graham C. Mullen  
United States District Judge

